

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

David McKinney,
Appellant,

v.

City of Davenport Board of Review,
Appellee.

ORDER

Docket No. 13-103-1166
Parcel No. H0040-05A

On February 27, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant David McKinney was self-represented and submitted evidence in support of his position. City Attorney Tom Warner represents the Board of Review. It did not submit any evidence nor participate in the hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

David McKinney, owner of property located at 942 N. Marquette Street, Davenport, Iowa, appeals from the City of Davenport Board of Review decision reassessing his property. According to the property record card, the subject property is a two-story, brick dwelling built in 1900 with 4855 square feet of total living area. It also has a stoop; a brick open porch; a frame open porch; a 509-square-foot, enclosed, brick porch; and a 546-square-foot, detached garage built in 1940. It is listed as superior quality grade (1-05) and is in below-normal condition. The dwelling is on a 0.733-acre site, which was given a 20% adjustment to the assessment for size.

The real estate was classified as residential on the initial assessment of January 1, 2013, and valued at \$228,320, representing \$23,630 in land value and \$204,690 in dwelling value. McKinney protested to the Board of Review on the grounds that the property was assessed for more than the value authorized by law and that there had been a change in value since the last assessment under Iowa Code sections 441.37(1)(a)(2), (1)(b) and 441.35(2). He asserted the correct assessment was \$128,535. The Board of Review denied the petition.

McKinney then filed an appeal with this Board on the same grounds. He now asserts the actual value of the property is \$135,000. We note in a re-assessment year like 2013, a protest based on change in value is akin to a market value claim under section 441.37(1)(a)(2). *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Therefore, we will only address McKinney's over-assessment claim.

McKinney provided nine parcel records of residential properties with his protest to the Board of Review. He compared their 2012 and 2013 assessments and calculated the percentage of change from one year to the next. Five of the properties' assessments increased from 4.5% to 64%. Four of the properties' assessments decreased from 2% to 30%. This information has no relevance to McKinney's claim of over-assessment.

McKinney provided this Board with parcel records for seven properties he considered comparable to his property. (Exhibits A1-7). Five of the properties sold between 1996 and 2010 and one sold in June 2013. Because most of these sales are dated, this information is not relevant to 2013 market values for the comparable properties or the subject property. Also, the most recent sale occurred six month after the assessment date and is a three-family-conversion, residential cooperative, which is not comparable to the single-family subject property. (Exhibit A5).

McKinney also presented seven additional sales for comparison (Exhibits B1-7). Of these, the properties located at 925 Marquette (Exhibit B1) and 910 Marquette Street (Exhibit B6) are exempt

properties. The properties located at 902 Marquette Street (Exhibit B2) and 1101 W 9th Street (Exhibit B4) are commercial properties. These exempt and commercial properties are not comparable to the subject property. The three remaining properties are residential. 834 Marquette Street (B3) sold in 2006, 641 E. Locust Street (Exhibit B5) sold in 2008, and are too dated to be useful for comparison. The property at 532 W 7th Street (Exhibit B7) sold in 2012. It is similar in style, living area, and age as the subject but differs from the subject with its wood exterior and upgrades such as slate roof, geo-thermal, seven full baths and whirlpool. This dwelling is on a 0.312-acre site, which is assessed at \$8670 as compared to McKinney's much larger 0.733-acre site, which is assessed at \$23,630. This property is assessed for more than the subject at \$241,460. The 2012 sales price is not listed on the exhibit; and the only previous sale was in 1998 for \$135,000. Because of the properties different features and no information regarding the actual 2012 sales price, the property is unusable as an indication of 2013 value.

McKinney testified he purchased the property, formerly a children's home, for \$121,000 at auction in 2006. His driveway, which had been a public street, was donated to him by the City after the purchase. He reports the drive is rutted out and needs repairs. The property record card supports McKinney's testimony and shows a 10,606 square-foot, vacated street was added to the parcel in March 2006. McKinney explained that many of his comparable properties were of superior quality or in better locations than his property, but still had lower assessments.

McKinney describes the area as a rough neighborhood and reports many problems three blocks away. Realtors he consulted with suggest his property is worth between \$130,000 and \$154,000. In his opinion, it is worth \$145,000. These opinions of value were unsupported, and we give them no consideration.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Section 441.21(1)(b) further states the sale prices of properties in abnormal transactions not reflecting market value must not be taken into account, or must be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales [and] contract sales. If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

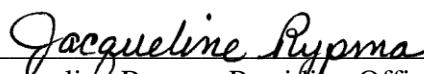
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the

subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

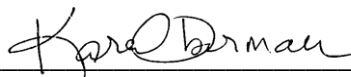
Only one of the properties McKinney submitted is a recent sale of a comparable dwelling. However, the exhibit provided does not list a sale price. The other properties McKinney identified are dated sales or not comparable to the subject property. Viewing the evidence as a whole, we determine the preponderance of the evidence does not support McKinney's claim of over-assessment.

THE APPEAL BOARD ORDERS the subject property's assessment of \$228,320, as determined by the City of Davenport Board of Review, as of January 1, 2013, is affirmed.

Dated this 25th day of March 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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